

PLANNING COMMISSION MINUTES

Newberg Public Safety Building - Newberg, Oregon

THURSDAY, NOVEMBER 8, 2001 AT 7 P.M.

Approved at the December 13, 2001 Planning Commission Meeting

I. PLANNING COMMISSION ROLL CALL

Planning Commission Members Present:

Steve Hannum Matson Haug Louis Larson Warren Parrish
Bart Reirson, Chair Lon Wall, Vice Chair

Absent: Nick Tri

Staff Present:

Barton Brierley, City Planner
Barbara Mingay, Planning Technician
David Beam, Economic Development Coordinator/Planner
Peggy Hall, Recording Secretary

II. OPEN MEETING

Chair Reirson opened the meeting at 7:00 p.m. He announced the procedure of testimony. Citizens must fill out a public comment registration form to speak at the meeting.

III. CONSENT CALENDAR

1. Approval of October 11, 2001, Planning Commission Minutes.

Motion #1:	Haug/Hannum voted to approve the consent calendar items, approving the minutes of the Planning Commission Meeting.
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Vote on Motion #1:	The Motion carried (5 Yes/2 Absent [Parrish/Tri]).
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IV. COMMUNICATIONS FROM THE FLOOR (five minute maximum per person)

None.

V. PUBLIC HEARINGS

PUBLIC HEARING #1 - QUASI JUDICIAL

APPLICANT: Mark S. McLeod
REQUEST: Annexation of a .96 acre parcel within Newberg's UGB
LOCATION: 1901 N. Main
TAX LOT: 3218AB-2000
FILE NO: ANX-25-01 **RESOLUTION NO.:** 2001-145
CRITERIA: Newberg Development Code Sections 10.36.030 and 10.20.030

OPEN FOR PUBLIC HEARING:

Chair Rierson entered ORS 197, relating to the Public Hearing process into the record, and opened the Public Hearing.

Abstentions/ex-parte contact: None.

Objections: None.

Staff Report and Preliminary Staff Recommendation: **Ms. Barbara Mingay** presented the staff report and that staff recommended adoption of Resolution 2001-145, approving the Annexation of a .96 acre parcel within Newberg's UGB. A portion of the property holds the stream corridor overlay. The property is adjacent to Lynn Drive and Main Street. Main Street is designated a minor collector. Lynn is a local street with 50 ft. Right-of-way with no sidewalks. It is on a septic system. At the time of development, the application will be required to complete half-street improvements on both streets.

Commissioner Larson reviewed the land use application form and asked for clarification for annexation and potential site development plan. If the property is annexed and they choose to subdivide, this requirement must be met.

Commissioner Haug said the property that is isolated due to the stream corridor appears to be unbuildable. Ms. Mingay said that the applicant has indicated a desire to transfer the property to the Park District. Ms. Mingay said that it does not appear to be sufficient space for development.

Chair Rierson asked for further clarification of the stream corridor ordinance and the removal of trees, if applicable. Ms. Mingay said that the City does not have a tree protection ordinance but these specific trees are within the stream corridor.

Commissioner Haug said that they are not specifically protected and asked Mr. Brierley to cite where the passage is in the Development Code prohibiting removal of trees in the stream corridor area. Discussion was held concerning Section 10.44.160(3) of the Development Code which details the plan. Commissioner Haug said that he does not see anything in the ordinance which would prevent someone from chopping down the trees.

Commissioner Parrish arrived at the meeting at 7:15 p.m.

Commissioner Haug said he challenged the staff in locating the specific language. Commissioner Haug recited 10.44.218(2) regarding removal of native trees and the permitted exceptions. Mr. Brierley said that individuals would be cited for the removal. The Ordinance provides for enforcement. Ms. Mingay said that today there is no protection under the law.

Commissioner Wall asked what about the Division of State Lands Wetlands regulations making it clear that if any subdivision is to be done at all on the property, there will have to be a wetland determination and asked if it covered the tree situation. Discussion was held concerning stream corridor and wetland regulations regarding trees over 6" in diameter which can only be removed with penalty. Discussion was held concerning donating land for a park and the criteria which would prohibit substandard development. Ms. Mingay said that it is not known whether the Park District would accept the property if donated.

Commissioner Haug asked if the land was allowed to be zoned under the CF zoning without having to give it away to the Park District, if it could be used for some other purpose. Discussion was held concerning the area to be zoned CF Community Facility rather than R-1.

Proponent: **Applicant Mr. Mark McLeod, 1901 N. Main Street, Newberg**, provided testimony concerning his request for the annexation. You cannot get two cars down his street. It is surrounded on three sides by the City. In terms of the other issues: park issue, he would be glad to give the land to the

City for a park. He did speak with Don Clements informally and his response was if the street improvements are done, he would take it. He pointed out that if there was new development to the west, it would create a small kiddie park so kids would not have to cross Main Street to the nearest park. It would be considered a convenience park. Mr. McLeod said that there were 3 trees left in the stream corridor. One just died. There would be no need to tear down the trees which are right in the stream and they would not be interfered with in the development process.

Proponent: Leonard Winard, 2000 N. Main Street, Newberg, Oregon, said he watches school busses go up North Main to the new schools at the end of the street. It seems that a school bus and a fire engine could not go through at the same time. He favors annexation which would widen Main Street. He is in favor of the application.

Norman Watt, 1912 N. Main Street, Newberg, Oregon, he is interested in the street improvement aspect. He asked if there would be any financial impacts on him to widen the street and put in sidewalks. Does the developer bear the burden of the cost in the street improvement? Ms. Mingay said yes. Mr. Watt said he was then in favor of the development.

Hearing Closed.

Ms. Mingay said that they have not received any additional information into the record. Staff recommended adoption of Resolution 2001-145 recommending the annexation and rezoning to R-1 and R1-SC.

Motion #2:	Wall/Haug to adopt Resolution 2001-145.
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Motion #3:	Haug/Wall motion to amend the motion, to include a recommendation that the NW corner of the site be zoned CF.
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Commissioner Haug was favorable to the proposal and it is a recommendation, but it would let the City Council know that the applicant has agreed and it would be part of the Planning Commission's recommendation.

Commissioner Larson asked if it was wise to make part of the motion related to a proposed development process that the applicant is not required to follow. The applicant may choose at the time of development to put together a different set of property lines, etc. Discussion was held concerning the stream corridor overlay zone and the re-designation of the property. Further discussion was held concerning the matter not being controversial. Whether he donates the land or not, the property is unbuildable.

Commissioner Parrish asked about a barn located on the property. Discussion was held concerning bringing the matter up at the approval of the original motion, as amended, if applicable.

Commissioner Wall reviewed the controversy in presenting a plan before the voters, it would be beneficial to have it laid out with specific concerns.

Vote on Motion #3:	The motion carried (6 Yes/1 Absent [Tri]).
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Commissioner Parrish addressed the location of an existing barn on the property which will be removed and which will open up the area. He asked when the barn would be removed - what is the time frame? Mr. Brierley said the house and barn (page 24 of the packet) does not have a specific requirement to be removed at any particular time, but in order to do a subdivision development, the barn

would have to be removed. Ms. Mingay said the existing "open space" view will go away with development.

Commissioner Haug said it is developable land and did not feel that any discussion about the barn is relevant.

Commissioner Parrish said that he was in favor of the applicant but questioned the positive and negative affects and why it was contained in the staff report.

Commissioner Wall addressed the process in removing the barn and how it was reflected in the staff report as a "negative" and the trade-off would be a good one.

Commissioner Wall said it is in the application due to potential controversy for neighbors to object, if there were any, and if there were objections, they could be raised. Discussion was held concerning the applicant's decision to remove the barn.

Commissioner Larson called for the question.

Vote on Motion #2:	The motion carried (6 Yes/1 Absent [Tri]).
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Ms. Mingay said that the matter would be forwarded to the City Council on December 3, 2001 at the Public Safety Building, at 7:00 p.m.

PUBLIC HEARING #2 - LEGISLATIVE

APPLICANT: City of Newberg

REQUEST: Adopt Newberg Riverfront Master Plan

FILE NO.: GR-20-99

RESOLUTION NO.: 2001-144

CRITERIA: Newberg Development Code 10.20.030

Continued from the October 11, 2001 Meeting

Staff Report: **Mr. David Beam, Planning Department**, presented the staff report. He said that it was the fourth meeting held on reviewing the Riverfront Master Plan. In the Resolution, he has added the language for Option 2 relating to future development of a pedestrian/bike path at the old Renne school site as unacceptable. Exhibit B has all proposed changes for the Urban Growth Management Plan and the Comprehensive Plan and Development Code. All changes previously approved by the Planning Commission have been incorporated into the revised plan. The last part of the staff report contained decision points relating to suggested design guidelines for any future bypass which may potentially go through or be nearby the riverfront area. They are the same suggested points from the last meeting with the exception of section (C) which welcomes pedestrian friendly access. Mr. Beam introduced Mr. Dave Bishop from ODOT. Mr. Beam passed out maps of the proposed bypass route alternatives.

Tape 1 - Side 2:

Mr. Dave Bishop, Oregon Department of Transportation, presented information concerning the State's plans for a bypass (Newberg/Dundee Transportation Project - Phase 2). Phase 1 ended and due to funding, the Project has been put back on track which resulted in the initiation of Phase 2. Discussion was held concerning identifying corridors which involved a regional bypass. ODOT is trying to help the city centers of Newberg and Dundee return to some semblance of business which would be an attractive place to walk around the city, get across the street. He acknowledged that Hwy. 99W was a national highway which connects Portland to the coast. He added that it was an extremely important corridor for those who live along it, and for those who don't, they depend upon it for commerce and/or traveling to

and from their residence. Mr. Bishop identified this as a Location Environmental Impact Statement in which the end product will be a choice made by the project oversight team. The team will make a final recommendation to the Oregon Transportation Commission on which corridors are the most appropriate for the bypass. That decision will be based upon analysis of a variety of factors such as: transportation, environmental and neighborhood impacts. The draft document for public review and comment will be presented in the latter part of March, 2002. There will be a public hearing and the normal amount of time for objections is 30 days, but ODOT expects to extend it to 45 days. During the time the public input is gathered and a final report is made, ODOT will be talking with Dundee and Newberg Planning Commissions and City Councils and Yamhill County to discuss access controls, land use changes, additions to ordinances which are designed to treat the route as a true bypass. As we move through the planning process, it is a strong statement to look at land use changes that will guarantee that it will be a bypass that will be around for the life of the road. Discussion was held concerning moving \$1M from future capital improvements from the state's budget to help pay for continued studies. They indicated that there would be very few intersections or interchanges (probably one located north of Newberg, one located south of Dundee and one at Hwy. 219 only). They understand the need that changes will be made, but it will function as a bypass.

Mr. Bishop said they are talking about improvements in transit services, traffic controls, better controlled street access and there were a variety of solutions in addressing problems of congestion. Mr. Bishop reviewed the map which showed the southern route beginning at the Mustard Seed property and continue across Hwy. 219, missing the airport, going down Eleventh Street, avoiding the mill, swinging over to College Street, going across a deep ravine over the railroad track, and then on to Dundee. This route may involve going through part of the Hidden Meadows subdivision. The route then swings further south skirting the edge of the river side of Dundee and parallels the railroad track where it would connect onto Hwy. 18. Discussion has been held concerning doing an interchange at McDougal corner or in the alternative, create a new interchange toward Dundee (south Dundee interchange). Mr. Bishop said that this was the favored route due to less impacts on residential property. In the neighborhood meetings, to date, they have held 22 public meetings over the past year which had been attended by over 1,131 people.

Mr. Bishop addressed the "northern bypass route" and due to the topography and vineyard land, it would be fairly expensive. Discussion was held concerning the property around Oxford Estates, the Adec buildings and Zimri Drive which skirts along the outer fringe of the Urban Growth Boundary toward North Valley Road. The topography of this route would extend length of time to travel the by pass as opposed to the southern route. There would not likely be a connection to Hwy. 219, probably under it and then swing around the north side of Crater Elementary, down the west side of Chehalem Drive along the houses, then cross Hwy 240. The route would involve moving of some houses and has potential problems in connecting to Fox Farm Road.

Mr. Bishop said that it was ODOT's intent not to divide the city. Whatever happens along the river, streets would still connect through over-passes or under-passes. Once it crosses Hess Creek by the airport and gets to the mill, the route may be below-grade. Mr. Bishop provided an additional handout that provided an update on the bypass project. By the Spring of 2003, a final decision on the corridor would be made in order to design the highway (design level EIS). Once this phase is completed, ODOT could be purchasing right-of-way rights as early as the Spring of 2003. Currently, the state legislature has \$400M through bond financing for transportation construction projects. ODOT has commissioned \$250M on modernization, which is divided among the 5 regions of the state. Our area has \$68M which is to be shared by 9 counties. Representatives have carved out \$20M for this area; \$4.7M for this project. The Oregon Transportation Commission will be making the final decision.

Commissioner Haug addressed the impact on the southern route on the potential riverfront improvements. Specifically, the southern route around the riverfront area should be underground (one concept). Under grounding of the bypass in some areas should be considered because if it is not, it would destroy the riverfront natural resource area. Discussion was held concerning pedestrian friendly

requirements of the riverfront which may kill the southern route proposal. Mr. Bishop said that it would be best to have the bypass go close to the river and not through the heart of the city. Mr. Bishop said his recommendation was not to prescribe the design but prescribe what it was that you want to accomplish so it would help guide the design of the bypass. Define what the end result the Planning Commission desires. Commissioner Haug said that at-grade crossings through this district would ruin the real potential of the riverfront becoming economically viable. Mr. Bishop said that if it was zoned 35mph through the area, it could help. Commissioner Haug said we already have a problem with 25mph through downtown. Discussion was held concerning a commitment and support to have both projects and how the below-grade plan would work.

Mr. Bishop addressed pedestrian performance standards (kids going across the bypass streets unescorted, etc.). He said that when ODOT gets to the specific design, the design would work with what was planned for the riverfront development if at all possible. Mr. Bishop said they do not have a specific design at this time. They have concepts where interchanges would be, but an idea would be to place performance standards at certain levels. What are the costs of below grade highway through the riverfront area? Mr. Bishop said they have not received draft costs and added that it would be more expensive to dig down rather than placing something on the surface. He would guess it would be much more expensive, but there could be some savings as well, for example, if at-grade levels were done in which they were close to a neighborhood, sound walls would need to be installed. However, if they go below grade, they would save money by not needing sound walls. Mr. Bishop said that it is a matter of choice.

Commissioner Parrish said that he appreciated Mr. Bishop attending the meeting and answering the questions. Commissioner Parrish reviewed the concept for the riverfront area. Discussion was held concerning other cities such as Salem and downtown Portland that have similar bypass routes through their cities. Commissioner Parrish addressed sound issues and the impact it will have on the surrounding neighborhood. He would like to have ODOT consider the money involved and how the riverfront development and the southern bypass route can co-exist.

Mr. Bishop said that vehicular speed and traffic movement was an issue. Mr. Bishop said there have been alternative routes dropping down the speed limits through certain areas. Mr. Bishop said the speed limit could drop down similar to Kruse Way in Lake Oswego or more like Front Street in downtown Portland along the Willamette River.

Commissioner Haug addressed crossing the bypass and how the below-grade levels would be a better possibility.

Chair Rierson said the language the Commission was concerned with involved the recommendation as part of the Riverfront Master Plan dealing with connectivity and the impact on the surrounding neighborhood. Mr. Bishop said that it would not cause ODOT to drop the southern route if the recommendation was to provide a below-grade route through the riverfront district.

Commissioner Wall addressed Mr. Bishop's statements regarding public park property prohibiting the route to go through that property. Mr. Jim Cox is the Bypass Project Manager and he was the consultant to Phase 1. Discussion was held concerning below grading could start at the beginning of the mill and it could surface some place farther down the route.

Tape 2 - Side 1:

Commissioner Wall said that he felt it was possible for the City to place too many restrictions and requirements on the southern route for the benefit of the riverfront area. He did not prefer any type of northern route. Discussion was held concerning access points and whether or not the riverfront development requirements would cause problems for the southern route which would possibly guarantee

its failure. Does ODOT really have the authority or the power to see that development and the bypass will or will not happen?

Mr. Bishop said that ODOT does have the ability to purchase access rights so they can guarantee limited access features to the bypass. They also have policies that require access controls within certain accesses. Where they don't have authority at this point is what happens to the lands along the bypass route. That is the City's job in zoning and comprehensive planning. Before ODOT builds anything, they sign an intergovernmental agreement between ODOT and the City. ODOT builds bypass and the City will keep the zoning around the bypass at a certain level. If the City changes the zoning along the bypass, the City may have to pay back ODOT for costs in constructing the highway. ODOT's past way of working was to build a highway and a business comes along and asks for access. ODOT has allowed this. ODOT is much more watchful in building highways and allowing access today.

Commissioner Parrish said the \$14M Brutscher to Main project had transportation improvement problems. Discussion was held concerning allowing people to travel at the designated speed limit without having to stop. Commissioner Parrish said that he disagreed with Mr. Bishop's comments in some respect. The stoplight at Elliott is a good move. The curves needed to be straightened out and that is good. Discussion was held concerning the highly congested vehicular traffic through town. Commissioner Parrish addressed comments involving the regional bypass.

Commissioner Parrish said that CPRD owns 188 acres which is still farm land (zoned EFU). Mr. James Cox said the federal transportation act prohibits taking of public park land property except in extreme circumstances. Discussion was held concerning the "national" highway system.

Mr. Brierley said there was a lot of questions about the bypass overall. He would like to focus the discussion on how, if there was a bypass (preferably with the southern route chosen), how would it affect the riverfront area.

Mr. David Miller, 400 N. Blaine Street, Newberg, Oregon, resident and business owner, Downtown Business Association and also a Transportation Task Force member. He said he appreciated the Commission working to make the riverfront area pedestrian friendly. Discussion was held concerning reducing the 35mph speed limit through certain areas of the route. He said that in reading through the literature, he did not believe slowing down the traffic was a viable option. Mr. Bishop said it would be an initial two lane and then a four lane route. He would like the Commission to consider, as a business owner, that access should be a concern (ramps up to intersections with lights for right or left turns), which would allow consumer traffic in the riverfront area to flow better and keep the larger trucks out of the immediate riverfront area. Discussion was held concerning other limited access. Mr. Miller asked for clarification of right-of-way purchases. Will people be given an option to move their homes or will they be purchased? Mr. Bishop said ODOT works with people on negotiating purchase rights. He would like to see that the information from the Transportation Task Force be reviewed and considered.

Commissioner Parrish addressed an *Oregonian* article on Monday, November 5, 2001, in which the City of Portland would receive 25% of the \$400M funds allotted for transportation solutions. He asked how the Task Force visioned funding the transportation projects. Mr. Miller said that the City could not fund the solutions. Discussion was held concerning marketing and funding the transportation projects. Commissioner Parrish said that ODOT has already paid \$1.8M on the bypass project. Mr. Miller said the businesses in the downtown area want to keep the auto traffic, but remove the truck traffic.

Commissioner Wall asked Mr. Miller if the Downtown Association had similar connections to the riverfront project, and if he thought that there was any project so important that we would want to jeopardize the siting of the bypass. Mr. Miller said that it impacted the entire community, not just the downtown area. Discussion was held concerning attracting people from different areas to come to Newberg, for the downtown area, riverfront and the wine country.

Chair Rierson called for a break at 9:00 p.m. The meeting reconvened at 9:10 p.m.

Staff Recommendation: **Mr. David Beam** reviewed the staff report a riverfront and changes involving Goal 12: minimize the negative impact of a potential southern bypass on the area requirements (page 54) would include; mitigation of noise levels in residential, commercial and recreational areas (point "J"), replace (f) and in stronger terms:.... "the bypass should be below grade through the riverfront area; and deleting paragraph (g) relating to boulevards.

Discussion was held concerning emphasizing the impact on the intersection (possible ramps) at the northeast or northwest areas to handle noise level problems and truck traffic.

Mr. Brierley suggested re-writing (b):

"(b) If southern route an at grade level should be given at the outside edge of the riverfront area beyond the below grade area".

Chair Rierson closed the public hearing.

Motion #4:	Haug /Larson to adopt Resolution No. 2001-144, adopting the Newberg Riverfront Master Plan with the changes suggested by staff.
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Commissioner Wall said that we can look at two ways: send a recommendation to the City Council which could discourage the riverfront area in favor of the southern bypass or vice versa. He agreed with the riverfront plan, but was disturbed that some believed that the plan had to be adopted as originally written.

Commissioner Haug said that if a below-grade recommendation was not proposed, he would like to see ODOT have the below-grade options be deliberated with pros and cons and included in their literature when discussing the bypass route project further, without the below-grade levels, we cannot reach the potential we have with the riverfront. Discussion was held concerning requiring below grade levels not killing the bypass project in order to be viable. The Council will be making the final decision about the Riverfront Plan.

Commissioner Parrish addressed requiring paragraph (f) to include the word "should".

Commissioner Wall said that Mr. Bishop noted that the below grade requests were not a killer for the bypass. Commissioner Wall addressed at-grade level access and the problems with the design. Some of the supporters of both projects believe there would be more than one access. Discussion was held concerning placing too many restrictions on the bypass for the benefit of the Riverfront Plan.

Commissioner Larson said he liked the recommendation as it is; however, no matter which route is chosen in the city, if it happens, the south side of town will be dictated by what ODOT wants to do and/or what the City will accept. He does not want to put a whole lot of energy into what ODOT really will do later on. He recommended that the document be moved to the City Council.

Mr. Brierley said that staff recommends the word "should" be added to the language as proposed.

Commissioner Larson called for the question.

Vote on Motion #4:

The motion carried (5 Yes/1 No [Parrish]/1 Absent [Tri]).

Mr. David Beam said the matter will be moved to the NUAMC meeting on November 28, 2001.

TAPE 2- SIDE 2:**PUBLIC HEARING #3 - QUASI JUDICIAL****APPELLANT:** Paul D. Vollmer**REQUEST:** Appeal of a City of Newberg staff decision approving the design review application for a new 5 island fueling station at Fred Meyer.**DATE OF DECISION:** September 28, 2001**LOCATION:** 3300 Portland Road**TAX LOT:** 3216-2004, -2005, and - 2008**FILE NO.:** DR-155-01 [APPEAL]**RESOLUTION NO.:** 2001-146**CRITERIA:** Newberg Development Code 10.28.050

Abstentions/ex-parte contact: Commissioner Parrish removed himself from the table and noted he would be abstaining from hearing and/or voting on the matter.

Staff Report and Preliminary Staff Recommendation: Mr. Brierley presented the staff report and recommended adoption of Resolution No. 2001-146, upholding the City Planning Staff decision granting design review approval for the proposed Fred Meyer fueling facility subject. Mr. Vollmer is the owner of Town & Country Texaco and is the Appellant (appealing the staff's decision). Staff recommended approval of the original application. The property has two existing accesses on Highway 99W. The proposal was to locate a new fueling station within the parking lot and include 5 fueling bays and each bay would allow a vehicle to fuel on each side (10 vehicles at one time). No new driveways are proposed. The application is a staff level decision with public notice and the application was reviewed with applicable criteria which were met. Mr. Brierley reviewed the criteria:

- Design compatibility (modern structure).
- On-site parking and on-site circulation. Appellant felt there was not sufficient parking and on-site circulation. Mr. Brierley reviewed the Development Code parking requirements and other uses. Discussion was held concerning the existing number of parking spaces and how there was more than enough remaining space to meet the parking criteria. There will be more traffic in the area, but the applicant has shown in their plan that they have parking space adequacy to meet the needs - criteria has been met.
- Setbacks and General requirements. The plan meets these.
- Landscaping. The plan meets standards.
- Sign Code criteria is met. The Kroger sign will not be placed on the canopy. They would need to submit the ultimate signage plan to Code standards.
- Not a manufactured home park
- Property is zoned C-2 "community commercial". Mr. Brierley reviewed the permitted use in that zone. A service station is permitted.
- Sub-District Compliance - none - does not comply
- Utility improvements - developed site; utilities are in place.
- Traffic improvements; the highway has just been rebuilt.
- Traffic Study improvement plan has been provided by the applicant. Mr. Brierley noted the driveway entrance locations. The study found that all entrances operate with a level of service B or better. No improvements are needed due to the location of the fueling station in the area. Mr. Brierley said the development will be required to pay transportation SDC charges and that puts that amount into the fund for improvements that help system capacity in areas other than the immediate area; for example, fund a traffic signal down Springbrook Road, if needed.

One of the contentions of the Appellant was that the traffic study considered a high percentage of the trips as not leaving the site. The issue is that you have the fueling station customers getting gas and where do they come from to get the gas? Would people who otherwise shop Fred Meyer, get fuel at Fred Meyer? Additional trips would not necessarily be added if the vehicles were already going to Fred Meyer anyway. The Appellant disagrees with that study and that only 9% of the trips to the fueling station would be additional trips. Staff does believe the study is correct. Staff recommended adoption of Resolution 2001-146 upholding the decision for the design review.

Commissioner Haug addressed the following concerns:

- Parking and on-site circulation. Did the staff consider pedestrian safety for the pedestrians using the Fred Meyer parking stalls (safety impacts on the configuration)? Mr. Brierley said they looked at the Development Code standards which have been met (separation of parking aisles, configuration of space between parking spaces, etc.)
- Trips to the Gas station. They would possibly be shared with other businesses in the area. Does the interpretation relate to standard practices in Oregon, or in Newberg, or other cities? Is it standard practice that these trips be new or shared? Is this type of facility consistently done throughout the State? Mr. Brierley said it is standard engineering practice to consider what percentage would be new or pass-by trips. Discussion was held concerning what other cities do in determining the criteria used in traffic engineering studies. Mr. Brierley said the Code said that the traffic study was required by a registered engineer who would then make a recommendation.
- The Texaco station at Baseline and Cornelius Pass Road in Hillsboro (in a complex with Albertsons) includes open space areas which also opens out onto the roadways around the area. Commissioner Haug questioned if it was something that was unique to Newberg or are there other similar facilities located in other areas of the State?

Commissioner Larson asked if staff counted the parking spaces? Ms. Mingay said the parking spaces were counted by City staff and the parking spaces noted by the applicant are within +/- 5. Commissioner Larson asked that in relation to diagonal parking, what about a double tanker having to drop fuel when all spaces are full? Mr. Brierley said that the applicant has provided a diagram providing access. Commissioner Larson said that parking was already a problem due to how people park. In talking about circulation of traffic, what do you mean by circulation around the gas pumps themselves? Discussion was held concerning parking traffic flowing with existing cars already parked and/or fueling. Mr. Brierley said the proposal has been reviewed by the Fire Department and they have approved it.

Proponent of the Appeal:

Paul Vollmer, owner of Town & Country Texaco, said it was not a good land use decision for the City of Newberg. The City has not been given an accurate picture of who would be affected. They believe the Applicant has provided misleading information. It is a five island fueling station. The applicant stated there were 805 parking spaces. They counted 691 spaces. The impressions was that with the proposed gas station as much as 150 spaces would need to be eliminated. If they do not eliminate angled parking spaces there would be conflicting movement. The potential for accidents and pedestrian safety was a concern. They do not envision how the project could be done safely. They secured 500 citizens in the area who agreed with the Appellant. People are not in favor of this development. The fuel truck would need to maneuver through the parking lot. Discussion was held concerning traffic flow and parking constraints.

Mr. Frank Charbonneau, Charbonneau Engineering, 9370 SW Greenburg, Portland, Oregon 97223, supports Mr. Vollmer's concerns about traffic. Mr. Charbonneau said he prepared a traffic study

for the shopping center located at the aforementioned Baseline and Cornelius Road project. They were required by Washington County to prepare different calculations which consisted of issues involving shopping center traffic, main retail spaces and a separate calculation for the service station. If there was no case history to draw from, they would do surveys and generate trip reports and rates. McKenzie reported 6% increase in new trips. Charbonneau Engineering also did a trip report which cite from 40-50% pass-by trips. He disagreed that 6% is the correct trip generation for the site. It could be anywhere from 35-50%. He also reviewed a study for the current Chevron station at Brutscher Street built in 1997. In a 1990 study, it showed a trip generation of 44% which was higher than the Applicant's reported 6%, in which the subject project was situated in a shopping center. The trip reports were affected by the combined use. Concerning the level of service and volume capacity results in the study, highway 99W in Springbrook analysis, strongly recommends that ODOT be given a chance to review the report.

Gary Spanovich, Transportation Planner, PO Box 1067, Canby, Oregon, said that he heard that apparently the former City Manager mentioned that ODOT had already denied the road encroachment decision which has bearing on this project. Mr. Spandovich said he was previously employed with Clackamas County Planning and Engineering as a Supervisor, performing over 200 traffic studies. Mr. Spanovich reviewed the number of trips reported in relation to whether they come from and go to which would be a true impact on the entire complex itself. He said that the application notes there would be 10 potential queues (fueling stations) backed into the angled parking areas. Mr. Spanovich reviewed potential vehicular/pedestrian contact (accidents). The applicant has not met the required parking circulation or provided alternative circulation. Mr. Spanovich referenced the standard manual of traffic studies and the assumptions made on the number of trips generated on the site, new trips, pass-bys, and the true impact of the development may be distorted.

Tape 4- Side 1 :

Mr. Spandovich said the same consultant on this study presumed 6% trips generated who is the same consultant that presumed almost 50% across the street. Even within a given engineering company, you may not find the same calculations.

Jagdeep Saran, 3745 Portland Road, Newberg, Oregon, said he owned the Chevron station across from Fred Meyer. He reviewed the access points for dropping fuel at the proposed site. Mr. Saran noted that they would be forcing customers to go to the gas islands in the parking area. He noted that a number of required parking spaces would have to be removed in order to provide for adequate spacing.

Satpal Saran, 3745 Portland Road, Newberg, Oregon, partner with Jagdeep Saran, said they opened 3 years ago projecting 800,000 gallons a year. There are other gas stations who are also not meeting their fueling goals. He questioned the need for a new gas station. He noted the limited amount of time spent with his family due to the cost of the operation of the facility.

Charlie Laughlin, Roadrunner 76 station, left the meeting before giving testimony.

Patricia Louys, PO 787, McMinnville, OR 97128, said she previously owned a gas station in Newberg in the 1960's. They are owners of the Texaco star mart next to the Dairy Queen. All of the people in the petroleum business who have started from scratch or remodeled have jumped through quite a few hoops and studies in order to meet all requirements. She said that it seems that Fred Meyer just moved it in their parking lot. Ms. Louys said that she just found out about it through a fluke. She did not receive notice. They also own a service station in Tillamook in which Fred Meyer has a fueling station at that facility. Discussion was held concerning the impact on the community would be high. Ms. Lewis addressed the big company causing problems for other smaller businesses. She implored the Commission to visit the Tillamook facility and see the impact it has on the community.

Mr. George Johnston, 21321 Old Kruger Road, Sherwood, Oregon, sold the Texaco gas station to Paul Vollmer. He has a station in Sherwood which requires a need for a new station through a

conditional use permit. Mr. Johnstone addressed the parking constraints and the flow of traffic. Mr. Johnston questioned the design proposal and how access will be impaired.

Chair Rierson read written statements by Mr. Sihran in which he collected approximately 500 signatures opposing the gas station.

Chair Rierson read the written statement by **Ken Wise** in which Mr. Wise said that the proposed project would have a negative impact.

Chair Rierson called for a break at 10:40 p.m. The meeting reconvened at 10:45 p.m.

Opponent:

Mr. James Coombes, Fred Meyer, 3800 SE 22nd Avenue, Portland, OR 97202-2999, said they would not propose anything that would cause harm to customers. The fuel trucks come at off hours. They are open 7:00 a.m. to 11:00 p.m. Discussion was held concerning gasoline pricing. He said that the Appellant's comments are incorrect. Due to Fred Meyer's community involvement with Kiwanis, Girl Scout and Good Will Industries, some of their parking spaces have been reduced. They are not a cut-rate low/grade fuel seller. They sell quality products. They are not going to have the impact that is reported by the Appellant. The fueling concept has been proven in other areas.

Brian Freeman, MacKenzie Group, PO 6930, Portland, Oregon, prepared the engineering study. He used the standard of care as in all other traffic studies in Oregon and California. ITE is the established trip planning procedure which recommends getting local rates. Multiple use developments will have shared access. Discussion was held concerning the peak and weekend period time-frames. They reviewed the analysis prepared and they used the same numbers the Applicant had, but they were not the same. They also used 1994 methodology which was updated in 1997 and 2000. They used the 2000 methodology in determining their calculations. He did not see any pass-by or shared reduction in their calculations. The facility at Baseline has an intersection problem.

Brent Ahrend, Traffic Engineer, MacKenzie Group, PO Box 6930, Portland, Oregon, said that part of the disagreement with the traffic analysis prepared by the Appellants is that the Appellant used an old methodology. They used a 60 second light cycle at Springbrook Road. ODOT uses a 2 minute cycle. ODOT standard is .075, and with the improvement finishing up now, they will be at that standard at the time of development. Mr. Ahrend said that bottom line, they would not make the intersection any worse. ODOT does not require that they mitigate the impact of the traffic. ODOT has reviewed the traffic study and the only concern ODOT had was that they needed to submit a road approach permit.

Commissioner Haug asked about other designs and addressed the Hillsboro site. Commissioner Haug said that there are a number of grocery outlets that have gas stations. Mr. Coombes said that the Safeway in Woodland, Washington, Albertsons in Portland (69th & Cully - north of Sandy) and the Fred Meyer store in Tillamook are comparables. Commissioner Haug asked if there were parking area located facilities.

Mr. Coombes said that the Albertsons at Salmon Creek (NE 20th) in Vancouver, Washington, has a convenience store with a gas station outlet and the next one the development stages was in Boise, Idaho. The west Eugene store is similar. Mr. Coombes suggested that the City engineer review it. Commissioner Haug said that it should be the original Applicant's burden of proof to make sure it works.

Commissioner Haug said he has a problem with the safety issue with vehicles and pedestrians.

Discussion was held concerning access in and out of the fueling facility. Commissioner Haug addressed how parked cars would be somewhat trapped due to a backlog of fueling activity and/or trucks dropping fuel. Discussion was held concerning the functionality of the design. Commissioner Haug noted the

interference of other uses in the parking area. He was afraid of the congestion which could cause problems for pedestrians and other vehicular traffic.

Commissioner Hannum noted that the Applicant already has a problem with the front entrance. A vertical stop sign should be immediately be installed at the Wendy's intersection.

Discussion was held concerning the fueling station being a separate business for the Fred Meyer store. Mr. Coombes said that the store manager was in charge of the store and the fueling facility. If there was a concern, the store director would over-rule.

Tape 4 - Side 1:

Commissioner Hannum addressed the definition of "pass by" and "shared".

Mr. Ahrend said that ODOT required the road approach process. They submitted their design for a request to use the same access points. They have not heard anything from ODOT yet. What Fred Meyer's is doing is trying to combine trips, which would reflect that the fueling customers would go to the store anyway which ultimately makes no further impact on the site, driveways and roads. A "pass-by" trip is a person driving just for gas. The pass-by survey showed 65% activity for the PM peak. However, 65% of that has an increase on the driveway (entry and exit) of the particular location (egress even possibly more than a new trip). The study only shows 9 new trips. It would appear that the by-pass trips would have a bigger impact on egress and parking.

Mr. Ahrend said it was the internal trips that were subtracted from the initial pass-by trips because they were already at Fred Meyer's anyway. Regarding corner A at Springbrook and 99W, when ODOT reconfigured that area, they reduced the size of the left turn back-up going into Fred Meyer. Commissioner Hannum said what is happening is Fred Meyer will be jamming up their parking lot.

Commissioner Wall asked about the threshold of ODOT and in this particular case, what was the criteria that ODOT used that the Applicant passed over the threshold. Mr. Freeman said that 25 new trips would be a change in use; increase the number of heavy trucks (10 trucks in a day), etc. Discussion was held concerning the threshold.

Commissioner Larson asked Mr. Coombes:

- **Fueling Location in store.** The criteria shows that 9% would be using the fueling station. Mr. Coombes said that it is about 75% and 25% off of pass-bys etc.
- What would happen if the location of the fueling station was relocated to the back of the station? Mr. Coombes said that it is Kroger's request to be out front. Mr. Coombes said they are not a discount fuel center and that they are selling gasoline at the prevailing rate.

Chair Rierson asked if they used a standard distributor. Mr. Coombes said they buy stock fuel.

Commissioner Wall said that it seems that there will not be a great increase in the number of cars going in and out because they would be shopping there anyway. The primary reason for keeping the facility on the street, would be to bring in new customers (added value).

Mr. Spanovich said there was a wide variety and differences of opinion. The design probably will not work well. If you have the additional trip generation calculations and reduce the pass-by trips and increase frequency trips, it would cause an excess of ODOT's requirement. Mr. Spanovich said the Applicant's report does not show this and there appears to be some mitigation. If ODOT would look at that report, they would come up with a different decision.

Staff Recommendation: Mr. Brierley said that it should be noted on Commissioner Hannum's ex parte contact concerning the parking problems at Fred Meyer's reported by Commissioner Hannum's wife. The bank previously discussed was the Washington Mutual Bank, and not the US Bank which has a separate parking area. Mr. Brierley said that none of the parking in the US Bank lot was included in the total number of parking spaces for the purposes of this application. Columbia River Bank also has separate parking spaces. Mr. Brierley reviewed the process: if the Commission was inclined to approve the appeal as submitted, the Commission should do so at this meeting. If the Commission was intending to deny the application and uphold the appeal, he also recommended that the Commission do so at the meeting. If the Commission was inclined to approve the application with some modifications, such as allowing the applicant to submit alternative designs, he would recommend that the applicant agree to a continuance and an extension of the 120 day limit in order to give them time to re-work and present alternatives to the Commission. Mr. Brierley said that they covered a lot of issues, i.e. parking spaces, calculations of trips, etc., and he believed the real issue with the application was due to competition, but that was not a criteria requirement that the City could hold. The applicant met the Development Code criteria. One issue that had been discussed was the internal circulation of the parking lot. Perhaps there are other configurations the applicant could come up with to address these.

Mr. Brierley said it was staff's recommendation to ask the applicant if it would be willing to consent to the continuance and the 120 day rule and that they would propose an alternate circulation layout and bring it back to Commission for another hearing and see if it addressed the concerns of the Commission.

Chair Rierson asked if the testimony should be closed. Mr. Brierley said you would want to leave the hearing open. Discussion was held concerning competition, traffic issues, parking lot and pedestrian traffic, etc.

Commissioner Hannum addressed issues relating to the sign code. If this facility would move over to the east end, closer to the building on the east side of the property, what are the rules for height and size of signs? Mr. Brierley said a sign on the building can have a sign the dimensions of one foot per length of the building (50 foot building would allow for a 50 foot sign). Discussion was held concerning free standing signs being a maximum of 20 feet.

Chair Rierson closed the public hearing.

Motion #5:	Haug /Larson to adopt the appeal and deny the application. The criterion in 10.28.050(2)(b) relating to parking and on-site circulation is not met based on the testimony of the appellant and oral testimony presented at the hearing. Provisions have not been made to provide sufficient and adequate on-site circulation; and testimony has shown that circulation of fueling vehicles would be difficult and would conflict with other vehicles. Testimony has shown that there will be conflicts between vehicles entering and exiting the fueling station and those parking in the spaces between the fueling station and the store. Testimony and evidence has shown that there will be conflicts between pedestrians walking to the store and the vehicles traveling to the fueling station. It has also been shown that there will be conflicts between vehicles queuing and maneuvering to access the fueling station and those trying to exit the parking aisles. It has not been shown that there is adequate access for emergency vehicles.
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Commissioner Haug said the applicant has said that there was no similar facility presently in existence. It does not solve a problem with a fueling facility imbedded in a parking area. There is already a problem. Criteria (b) recommends changing the findings so that they do not meet criteria (congestion, proposal does not fit well in the area and is not safe [circulation problems]).

Commissioner Wall said he would vote in favor of the motion but felt that the Appellant must make a

stronger case in challenging the criteria.

Discussion was held concerning appealing the matter to the City Council.

Commissioner Larson said that he felt that the idea of putting a fueling station in a parking lot on a major street in town, only creates a bigger traffic situation. The parking lot is difficult to get through at a normal time, adding a fuel facility would only make matters worse. Discussion was held concerning the additional new trips generated being inaccurate. Commissioner Larson asked about emergency vehicles not being able to respond within a packed parking lot. There is also circulation difficulty which has not been met. Commissioner Larson said he was in Tucson, Arizona when Costco put in their fueling facility. He said it was not on the street but their parking lot was blocked at non-peak hours. In the particular instance, peak hour operation would cause a backlog for the entire complex. The design proposed by the applicant is poor.

Discussion was held concerning staff helping the Commission in defining the criteria for upholding the appeal and denying the application to be provided at the next meeting.

Commissioner Hannum said that he assumed that the Applicant is not in a position to provide for alternate designs.

Chair Rierson said he is in partial agreement but was not as convinced that the application did not meet the criteria. He agreed that traffic flow was a concern. He saw problems with one-way traffic going in and out through the parking area. Even with the vertical stop sign, that additional traffic going through is going to cause problems with pedestrian/vehicular traffic.

Tape 4 - Side 2:

Mr. Brierley prepared the following findings:

- Find that the criteria in Section 10.28.050(2)(b) of the Development Code relating to parking and on-site circulation has not been met for the following reasons: testimony of the appellant and/or testimony at the hearing; provisions not met for on-site circulation; circulation of the fueling vehicles would be difficult and would conflict with other vehicles in circulation, conflicts with entering and existing fueling stations; parking spaces between the store and the fueling station are limited and constrained; pedestrians walking and vehicles traveling to fuel station would cause problems; vehicles coming in and exiting the fueling trucks, fueling trucks would most likely occur on non-open hours, safety concerns with fire and emergency vehicles; the Planning Commission is not convinced that the emergency vehicles could get into the property if congested.

Commissioner Larson called for the question.

Vote on Motion #5:	The motion carried (5 Yes/1 Abstain [Parrish]/1 Absent [Tri]). Motion carried).
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Ms. Mingay said that this is the final decision. The appeal period will expire on Monday the 26th of November.

Commissioner Wall left the meeting at 12:05 a.m.

VI. ITEMS FROM STAFF

1. Update on Council items. Mr. Brierley said the Council upheld the Planning Commission's decision on the denial of the cell tower application. The Council appointed Nick Tri as the new Planning Commission member. The Council approved the UGB amendment on Crater Lane. It will

come to the Planning Commission for an annexation application. The Council also created an Urban Renewal Agency (appointed the Council as the Agency). They are working with an Urban Renewal Task Force to create an Urban Renewal Plan. There is a meeting of the City Council and the Task Force on November 14. There will be a public hearing on December 17. Duane Cole is now the City Manager of Walla Walla, Washington. City Attorney Terrence D. Mahr is Manager Pro Tem. They have hired a consulting firm to assist in the hiring of a new City Manager. On December 3, 2001, the City will review the renewal applications for Mr. Hannum and Mr. Parrish for their positions on the Planning Commission.

Mr. Brierley said that on November 15, 2001, there will be a meeting on the Chehalem Valley Strategic Plan with the Newberg School District, Yamhill County, Chehalem Park and Recreation District and the City of Newberg and the City of Dundee. He would recommend attendance at the November 15 meeting to find out about the strategic plan and input. The group has reached out to the Spanish speaking community.

Mr. Brierley added that they scheduled the dinner for the Commission and their spouses for November 29, Thursday after Thanksgiving. Commissioner Parrish coordinated the dinner at the Golden Leaf at 7:00 p.m., or immediately after the tree lighting at the library.

Commissioner Parrish asked if the Commissioners wanted a family style dinner or for each person to choose their own individual dishes. Discussion was held concerning choosing the family style.

2. Other reports, letters, or correspondence - None.
3. Next Planning Commission Meeting: December 13, 2001

VII. ITEMS FROM COMMISSIONERS

Commissioner Larson said he would like the City of Newberg to remove the propane tank at the new pump station at Oak Knoll Drive which has remained there for over 79 days. Mr. Brierley said he would take care of it.

Chair Rierson said he would like to see trees planted at Portland Road and River Street. Ms. Mingay said they are planned to be planted in the next couple of months.

Commissioner Parrish addressed the placement of the "Welcome to Newberg" sign. Commissioner Parrish said that he has been on the Commission for 4 years and he has asked that the meetings be videotaped. It has been mentioned a number of times. Duane Cole, former City Manager, attended one Planning Commission meeting. Mr. Cole wrote a letter to the Newberg Graphic thanking the City for its involvement, apparently omitting the Planning Commission's involvement. Commissioner Haug said that he was not slighted. Commissioner Parrish said that he hoped that the new City Manager would work more with the Planning Commission.

VIII. ADJOURNMENT

The meeting was adjourned at approximately 12:25 a.m.

Passed by the Planning Commission of the City of Newberg this 13th day of December, 2001.

AYES: S NO: ⊖ ABSTAIN: ⊖ ABSENT: 2 (Tri)
(list names) (Rierson)

ATTEST:

Peggy R. Hall
Planning Commission Recording Secretary Signature

Peggy R. Hall 12-13-01
Print Name Date

**INFORMATION RECEIVED INTO THE RECORD
AT THE NOVEMBER 8, 2001 PLANNING COMMISSION MEETING.**

**THIS INFORMATION IS ON FILE AT THE COMMUNITY DEVELOPMENT OFFICE
ATTACHED TO THE MINUTES OF THE MEETING AND IN THE PROJECT FILE IT
PERTAINS TO.**

PROJECT FILE #

DR-155-01 Maps from Applicant

LABELS FROM THE 11/08/01
PLANNING COMMISSION
MEETING FROM THOSE WHO
GAVE PUBLIC TESTIMONY/
REGISTRATION CARD

**Be sure to add file number by
name** on each label

DR155-01
Brent Ahrend
MacKenzie Group
0690 SW Bancroft Street
Portland, OR 97201-0039

DR-115-01
Brian Freeman
MacKenzie Group
0690 SW Bancroft Street
Portland, OR 97201-0039

DR-155-01
Frank Charbonneau
9370 SW Greenburg Road
Portland, OR 97223

DR-155-01
James Coombs
Fred Meyer Real Estate Manager
PO Box 42121
Portland, OR 97242-0121

DR-155-01
Tejinder S. Grewal
3745 Portland Road
Newberg, OR 97132

DR-155-01
George Johnston
21321 Old Kruger Road
Sherwood, OR 97140

DR-155-01
Charles Laughlin
PO Box 767
McMinnville, OR 97128

DR-155-01
Patricia Louys
PO Box 787
McMinnville, OR 97128

DR-155-01
Satpal Saran
3745 Portland Road
Newberg, OR 97132

DR-155-01
Jagdeep Saran
3745 Portland Road
Newberg, OR 97132

DR-155-01
Gary Spanovich
Transp. Planner Repres. Mr. Vollmer
PO Box 1067
Canby, OR 97013

DR-155-01
Paul Vollmer
701 Deborah Road
Newberg, OR 97132

ANX-25-01
Norman Watt
1912 N. Main Street
Newberg, Oregon 97132

DR-155-01
Leonard Weinert
2000 N. Main Street
Newberg, Oregon 97132

DR-155-01
Ken Wise - Newberg Texaco
701C Deborah Road
Newberg, OR 97132

GR-20-99
Dave Millar
PO Box 1076
Newberg, OR 97132